

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

FARHAD AZIMA,

Plaintiff,

v.

NICHOLAS DEL ROSSO and VITAL
MANAGEMENT SERVICES, INC.,

Defendants.

No. 1:20-cv-00954-WO-JLW

MOTION TO QUASH PLAINTIFF’S SUBPOENA DUCES TECUM

Pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure and Local Rules 7.3 and 26.1, Non-Party Christopher Swecker and Christopher Swecker Enterprises, LLC by and through its attorney, hereby moves for an Order quashing the subpoena dated January 23, 2023 (the “subpoena”) in the above-captioned action or otherwise modifying the same. The subpoena requests information directly related to Swecker’s legal work on behalf of a client, and the client engagement itself, including all billing records.

In support of this Motion, as set forth more fully in its Memorandum of Law in support of this Motion, Swecker states the following:

1. This Court issued a Memorandum Opinion and Order on December 10, 2021 [Doc. 65] (the “December 10 Order”) in which the Court dismissed nine of Plaintiff’s eleven claims, leaving only two: a state-law misappropriation of trade secrets claim and a contingent civil conspiracy claim. *Id.* at 23–24.

2. In the December 10 Order, the Court further limited the potentially actionable conduct in this case to that which occurred in 2018–2019—namely, “the 2018–2019 online posting of new links to Plaintiff’s confidential business data.” DE 80 at 4.

3. On January 24, 2023, Plaintiff served an extensive subpoena duces tecum on Swecker with no scope limitation reflecting the Court’s December 10 Order. As explained in the accompanying Memorandum of Law, the subpoena makes no attempt to limit its requests to the scope of the remaining claims or to the time period of potentially actionable conduct.

4. Further, the subpoena, on its face, requests material that is protected by the attorney-client privilege, as it requests information from a lawyer relating to his legal work on behalf of a client, and his work product.

5. Federal Rule of Civil Procedure 45(d)(3)(A) provides that a court “must quash or modify a subpoena that . . . subjects a person to an undue burden.” Fed. R. Civ. P. 26(c)(1). further provides that a “court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including . . . forbidding the disclosure or discovery; . . . [and] forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters.”

6. Pursuant to Local Rule 37.1(a), Swecker’s counsel conferred with Plaintiff’s counsel regarding this dispute on several occasions between January 30 and February 7, 2023. After personal consultation and diligent attempts to resolve differences, the parties are unable to reach an accord.

WHEREFORE, Swecker respectfully moves for an Order quashing the Subpoena.

Respectfully submitted, this the 7th day of February 2023.

/s/ Walter C. Holton Jr.

Walter C. Holton, Jr.

NCSB #: 12698

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of February, 2023, I caused a copy of the foregoing document to be served via e-mail through the Court's ECF notification system upon the following:

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